IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1043 OF 2005

Mrs.Gool Phirozeshah Bharucha ..Petitioner.

Vs.

Narayan Damodar Bhonde & Ors. ..Respondents.

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Mr.D.M.Gaokar i/b Divya Shah Associates for the Petitioner.

Mr.Rohit Pawaskar for Respondent No.5.

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CORAM : DR.D.Y.CHANDRACHUD, J.

29th August, 2005.

P.C. :

The original Defendant was a Parsi Zorastrian and died isseless. Upon her death, an application was moved before the Trial Court for bringing on the record her three blood relatives as legal heirs. The First Respondent who is admittedly not related to the deceased claims on

the basis of a will dated 16th August, 1993. He has already been brought on the record. The impugned order of the Additional District Judge by which the application at Exh.59 came to be allowed so as to also bring on record the three relatives of the deceased does not warrant any interference in the exercise of the jurisdiction under Article 227. Who if any of the aforesaid Defendants would be entitled to claim the benefit of tenancy under Section 5 (11)(c) of the Rent Act is a matter which will be decided at the trial of the suit. No interference is called for. The Petition is rejected.